

## SUBCHAPTER B—MARKETING OF PERISHABLE AGRICULTURAL COMMODITIES

### PART 46—REGULATIONS (OTHER THAN RULES OF PRACTICE) UNDER THE PERISHABLE AGRI- CULTURAL COMMODITIES ACT, 1930

#### DEFINITIONS

Sec.

- 46.1 Words in singular form.
- 46.2 Definitions.

#### LICENSES

- 46.3 License required.
- 46.4 Application for license.
- 46.5 Bonds.
- 46.6 License fees.
- 46.7 Issuance of license.
- 46.8 Copies of licenses.
- 46.9 Termination, suspension, revocation, cancellation of licenses; notices; renewal.
- 46.10 Nonlicensed person; liability; penalty.
- 46.11 What constitutes valid license, form and use.
- 46.12 Forms of inscriptions.
- 46.13 Address, ownership, changes in trade name, changes in number of branches, changes in members of partnership, and bankruptcy.

#### ACCOUNTS AND RECORDS (GENERAL)

- 46.14 General.
- 46.15 Documents to be preserved.
- 46.16 Method of preservation or storage of records.
- 46.17 Inspection of records.

#### RECORDS OF MARKET RECEIVERS

- 46.18 Record of produce received.
- 46.19 Sales tickets.
- 46.20 Lot numbers.
- 46.21 Returns, rejections, or credit memorandums on sales.
- 46.22 Accounting for dumped produce.
- 46.23 Evidence of dumping.

#### RECORDS OF RETAILERS

- 46.24 Records of retailers.

#### AUCTION SALES

- 46.25 Auction sales.

#### DUTIES OF LICENSEES

- 46.26 Duties of licensees.

#### BROKERS

- 46.27 Types of broker operations.
- 46.28 Duties of brokers.

#### RECEIVING MARKET COMMISSION MERCHANTS AND JOINT ACCOUNT PARTNERS

- 46.29 Duties.

#### GROWERS' AGENTS AND SHIPPERS

- 46.30 Types of operations by growers' agents and shippers.
- 46.31 Duties of shippers.
- 46.32 Duties of growers' agents.

#### CONVERSION OF FUNDS

- 46.33 Conversion of funds.

#### DISCLOSURE OF BUSINESS

- 46.34 No disclosure of business of licensee.

#### SUSPENSION AND REVOCATION OF LICENSES

- 46.35 Suspension or revocation order.

#### PUBLICATION OF FACTS

- 46.36 Publicity.

#### SUNDAYS AND HOLIDAYS

- 46.37 Sundays and holidays excluded.
- 46.38 Sundays and holidays included.

#### COMMODITY INSPECTION

- 46.39 Inspection of commodities.
- 46.40 Inspection service.

#### LICENSEE'S RESPONSIBILITY FOR ACTS OF EMPLOYEES AND AGENTS

- 46.41 Licensee's responsibility for acts of employees and agents.

#### COPIES OF RECORDS

- 46.42 Copies of records; how obtained.

#### TRADE TERMS AND DEFINITIONS

- 46.43 Terms construed.

#### GOOD DELIVERY STANDARDS

- 46.44 Good delivery.

#### MISREPRESENTATION OR MISBRANDING

- 46.45 Procedure in administering section 2(5) of the Act.

#### STATUTORY TRUST

- 46.46 Statutory trust.

#### OMB CONTROL NO.

- 46.47 OMB control numbers assigned pursuant to the Paperwork Reduction Act.
- 46.48 Procedure for investigating complaints involving commodities of a unique nature or coming from a distinct geographic area.

## § 46.1

46.49 Written notifications and complaints.

AUTHORITY: Sec. 15, 46 Stat. 537; 7 U.S.C. 499o.

SOURCE: 28 FR 7067, July 11, 1963; 28 FR 7287, July 17, 1963, unless otherwise noted.

### DEFINITIONS

#### § 46.1 Words in singular form.

Words in this part in the singular form shall be deemed to import the plural, and vice versa, as the case may demand.

#### § 46.2 Definitions.

The terms defined in the first section of the Act shall have the same meaning as stated therein. Unless otherwise defined, the following terms whether used in the regulations, in the Act, or in the trade shall be construed as follows:

(a) *Act* means the Perishable Agricultural Commodities Act, 1930, approved June 10, 1930, and legislation supplementary thereto and amendatory thereof (46 Stat. 531; 7 U.S.C. 499a-499r).

CROSS REFERENCE: For Rules of Practice under the Act, see Part 47 of this chapter.

(b) *Department* means the United States Department of Agriculture.

(c) *Secretary* means the Secretary of Agriculture of the United States, or any officer or employee of the Department to whom authority has heretofore been delegated, or to whom authority may hereafter be delegated, to act in his stead.

(d) *Service* means the Agricultural Marketing Service, United States Department of Agriculture.

(e) *Deputy Administrator* means the Deputy Administrator, Regulatory Programs, of the Consumer and Marketing Service, or any officer or employee of the Service, to whom authority has heretofore lawfully been delegated, or to whom authority may hereafter lawfully be delegated, to act in his stead.

(f) *Division* means the Fruit and Vegetable Division of the Service.

(g) *Director* means the Director of the Division or any officer or employee of the Division to whom authority has heretofore lawfully been delegated, or to whom authority may hereafter lawfully be delegated, by the Director to act in his stead.

## 7 CFR Ch. I (1-1-04 Edition)

(h) *In commerce* means interstate or foreign commerce as defined in paragraphs (3) and (8) of the first section of the Act.

(i) *Person* means any individual, partnership, limited liability company, corporation, association, or separate legal entity.

(j) *Retailer* is a dealer engaged in the business of selling any perishable agricultural commodity at retail; *Provided*, That occasional sales at wholesale shall not be deemed to remove a dealer from the category of retailer if less than 5 percent of annual gross sales is derived from wholesale transactions.

(k) *Firm* means any person engaged in business as a commission merchant, dealer, or broker.

(l) *Licensee* means any firm who holds an unrevoked and valid unsuspended license issued under the Act.

(m) *Dealer* means any person engaged in the business of buying or selling in wholesale or jobbing quantities in commerce and includes:

(1) Jobbers, distributors and other wholesalers;

(2) Retailers, when the invoice cost of all purchases of produce exceeds \$230,000 during a calendar year. In computing dollar volume, all purchases of fresh and frozen fruits and vegetables are to be counted, without regard to quantity involved in a transaction or whether the transaction was intrastate, interstate or foreign commerce;

(3) Growers who market produce grown by others.

(4) The term "dealer" does not include persons buying produce, other than potatoes, for canning and/or processing within the State where grown, whether or not the canned or processed product is to be shipped in interstate or foreign commerce, unless such product is frozen, or packed in ice, or consists of cherries in brine.

(n) *Broker* means any person engaged in the business of negotiating sales and purchases of produce in commerce for or on behalf of the vendor or the purchaser, respectively, except that no person shall be deemed to be a "broker" within the meaning of the Act if such person is an independent agent negotiating sales for or on behalf of the vendor and if the only sales of such commodities negotiated by such person are